

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of  
Larry J. Duckworth  
Cordele, Georgia

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File Number: EB-06-AT-057  
NAL/Acct. No. 200732480002  
FRN: 0015847296

**FORFEITURE ORDER**

**Adopted:** February 14, 2007

**Released:** February 16, 2007

By the Regional Director, South Central Region, Enforcement Bureau:

**I. INTRODUCTION**

1. In this *Forfeiture Order* (“*Order*”), we issue a monetary forfeiture in the amount of two thousand five hundred dollars (\$2,500) to Larry J. Duckworth for willful and repeated violation of Section 301 of the Commission’s Act of 1934, as amended (“*Act*”).<sup>1</sup> The noted violation involves Mr. Duckworth’s operation of an unlicensed radio transmitter.

**II. BACKGROUND**

2. In response to a complaint, on July 18, 2006, agents from the Commission’s Atlanta Office of the Enforcement Bureau (“*Atlanta Office*”) conducted an inspection of Mr. Duckworth’s CB radio station located inside his residence. The agents observed a coaxial cable connecting a linear amplifier to his CB transmitter. The power of the station as installed measured at 106 watts. Mr. Duckworth admitted to the agents that he had been operating the station with the attached linear amplifier. The agents informed him that he was in violation of the Commission’s Rules (“*Rules*”) and that use of a linear amplifier voided his authority to operate his station. Mr. Duckworth voluntarily surrendered his linear amplifier.

3. In response to another complaint, on September 28, 2006, agents from the Atlanta Office re-inspected the CB station in Mr. Duckworth’s residence. The agents observed a coaxial cable connecting two linear amplifiers to his CB transmitter. The power of the station as installed measured at 2500 watts. The CB transmitter at his station was a non-certificated CB transmitter, Galaxy model DX99V. Mr. Duckworth admitted he used his station as configured.

2. On December 15, 2006, the Atlanta Office issued a *Notice of Apparent Liability for Forfeiture* to Mr. Duckworth in the amount of ten thousand dollars (\$10,000) for the apparent willful and repeated violation of Section 301 of the Act.<sup>2</sup> Mr. Duckworth submitted a response to the *NAL* requesting a reduction or cancellation of the proposed forfeiture based on his inability to pay.

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<sup>1</sup> 47 U.S.C. § 301.

<sup>2</sup> *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200732480002 (Enf. Bur., Atlanta Office, December 15, 2006) (“*NAL*”).

### III. DISCUSSION

3. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Act,<sup>3</sup> Section 1.80 of the Rules,<sup>4</sup> and *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 (1997), recon. denied, 15 FCC Rcd 303 (1999) ("*Forfeiture Policy Statement*"). In examining Mr. Duckworth's response, Section 503(b) of the Act requires that the Commission take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.<sup>5</sup>

4. Section 301 of the Act requires that no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio within the United States except under and in accordance with the Act and with a license. Section 95.404 of the Rules<sup>6</sup> states that CB operators do not require an individual license to operate a CB station because they are authorized by this rule to operate in accordance with the rules in this subpart.

5. Section 95.409(a) of the Rules<sup>7</sup> requires that CB operators use an FCC certificated CB transmitter at their CB stations. Section 95.409 of the Rules also states that use of a non-certificated transmitter voids your authority to operate your station. On September 28, 2006, agents from the Atlanta Office observed a non-certificated CB transmitter, a Galaxy DX99V, installed at his Mr. Duckworth's CB station. Mr. Duckworth admitted using a non-certificated CB transmitter.

6. Section 95.410(a) of the Rules<sup>8</sup> states that CB station transmitter output must not exceed 4 watts carrier power. Section 95.410(c) of the Rules<sup>9</sup> also states that use of a transmitter which has carrier power in excess of that authorized voids your authority to operate the station. On July 18, and September 28, 2006, Mr. Duckworth's station carrier power was measured to be 106 watts and 2500 watts, respectively.

4. Section 95.411(a)(1) of the Rules<sup>10</sup> prohibits attaching an external radio frequency (RF) power amplifier, sometimes called a linear amplifier, to a CB transmitter in any way. Section 95.411(b) of the Rules<sup>11</sup> states that there are no exceptions to this rule and use of a power amplifier voids your authority to operate the station. On July 18 and September 28, 2006, agents observed linear amplifiers attached to Mr. Duckworth's CB transmitter. On both dates, Mr. Duckworth admitted using the linear amplifiers attached to his transmitter.

5. Because Mr. Duckworth violated the CB Rules by using a non-certificated CB transmitter, attaching linear amplifiers to his CB transmitter, and operating overpower, he voided his authority to operate his CB station pursuant to Section 95.404 of the Rules. Thus, based on the evidence,

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<sup>3</sup> 47 U.S.C. § 503(b).

<sup>4</sup> 47 C.F.R. § 1.80.

<sup>5</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>6</sup> 47 C.F.R. § 95.404.

<sup>7</sup> 47 C.F.R. § 95.409(a).

<sup>8</sup> 47 C.F.R. § 95.410(a).

<sup>9</sup> 47 C.F.R. § 95.410(c).

<sup>10</sup> 47 C.F.R. § 95.411(a)(1).

<sup>11</sup> 47 C.F.R. § 95.411(b).

we find that Mr. Duckworth willfully<sup>12</sup> and repeatedly<sup>13</sup> violated Section 301 of the Act by operating a radio transmitter, his CB transmitter, without the required authorization from the Commission.

6. In his response to the *NAL*, Mr. Duckworth asserts that a \$10,000 forfeiture would produce a financial hardship and requests that the forfeiture be cancelled or significantly reduced. The Commission has determined that, in general, an entity's gross revenues are the best indicator of its ability to pay a forfeiture.<sup>14</sup> After reviewing Mr. Duckworth's financial documentation, we conclude that a reduction of the forfeiture to \$2,500 would be appropriate.

7. We have examined Mr. Duckworth's response to the *NAL* pursuant to the statutory factors above, and in conjunction with the *Forfeiture Policy Statement*. As a result of our review, we conclude that Mr. Duckworth willfully and repeatedly violated Section 301 of the Act. Although cancellation of the proposed monetary forfeiture is not warranted, reduction of the forfeiture amount to \$2,500 is appropriate based on Mr. Duckworth's demonstrated inability to pay.

#### IV. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311 and 1.80(f)(4) of the Commission's Rules, Larry J. Duckworth **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of two thousand five hundred dollars (\$2,500) for violation of Section 301 of the Act.<sup>15</sup>

9. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.<sup>16</sup> Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106. Requests for full payment under an installment plan should be sent to: Associate Managing Director, Financial Operations, 445 12th Street, S.W., Room 1A625, Washington, D.C.

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<sup>12</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful,' ... means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act ...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

<sup>13</sup> The term "repeated," when used with reference to the commission or omission of any act, "means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2).

<sup>14</sup> See *PJB Communications of Virginia, Inc.*, 7 FCC Rcd 2088, 2089 (1992) (forfeiture not deemed excessive where it represented approximately 2.02 percent of the violator's gross revenues); *Local Long Distance, Inc.*, 16 FCC Rcd 24385 (2000) (forfeiture not deemed excessive where it represented approximately 7.9 percent of the violator's gross revenues); *Hoosier Broadcasting Corporation*, 15 FCC Rcd 8640 (2002) (forfeiture not deemed excessive where it represented approximately 7.6 percent of the violator's gross revenues).

<sup>15</sup> 47 U.S.C. §§ 301, 503(b); 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

<sup>16</sup> 47 U.S.C. § 504(a).

20554.<sup>17</sup>

10. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class and Certified Mail Return Receipt Requested to Larry J. Duckworth at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

Dennis P. Carlton  
Regional Director, South Central Region  
Enforcement Bureau

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<sup>17</sup> See 47 C.F.R. § 1.1914.